

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MARY LOUISE G. DAVILA A/K/A	§	IN THE DISTRICT COURT
MARY LOUISE DAVILA	§	
	§	
VS.	§	CIVIL NO.: 5:22-CV-1123
	§	
99 CENTS ONLY STORES, LLC AND	§	
99 CENTS ONLY STORES TEXAS,	§	
INC.	§	

DEFENDANTS NOTICE OF REMOVAL

COMES NOW, 99 CENTS ONLY STORES LLC and 99 CENTS ONLY STORES TEXAS, INC., Defendants and files this Notice of Removal pursuant to 28 U.S.C. section 1446 (a) and hereby removes this case from the 288th Judicial District Court in Bexar County Texas to the United States District Court for the Western District of Texas.

Defendants demand a jury trial on all issues.

Defendants have denied the claims and damages alleged in Plaintiff's Original Petition and file this notice without waiving any claims, defenses, exceptions or obligations that may exist in its favor in state or federal court.

I.

INTRODUCTION

99 Cents Only Stores LLC and 99 Cents Only Stores Texas, Inc. are the only defendants in a civil action commenced on September 20, 2022 in the 288th Judicial District Court of Bexar County, Texas. The Cause No. of that case is 2022CI18399 and the style is Louise G. Davila a/k/a Mary Louise Davila v. 99 Cents Only Stores LLC and 99 Only Stores Texas, Inc.

Copies of all pleadings and orders served in the state court action are attached along with an index of the state court documents. The address for the Judicial District Court is; Bexar County Courthouse, 100 Dolarosa, 2nd Floor, San Antonio, Texas 78205.

Plaintiff in the state court case is represented by Karl Brock of Brock and Brock, P. C. 803 E. Mistletoe San Antonio, Texas 78212; Tel. (210)733-6666; Fax. (210)733-6893; Emil address: Karl@brockandbrock.com.

Defendants are represented by: Michael J. Griffin, III, Griffin & Griffin, 18230 FM 1488 Rd., Suite 330, Magnolia, Texas 77354, Tel. (713)228-6568; Fax. (713)228-9900; Email address: Michael@griffinandgriffin.us.

There are no other parties to the civil action.

II.

BASIS FOR REMOVAL

Defendants timely filed an Answer in the state court action. The lawsuit was filed on September 20, 2022 and Defendants were served on September 26, 2022. This Notice of Removal is filed within 30 days of receipt of the citation and petition and is timely filed pursuant to 28 U.S.C. section 1446 (B).

A. Diversity of Citizenship

1. The district courts of the United States have original jurisdiction of this action based on diversity of citizenship among the parties. Each Defendant is now and was at the time this action was filed, diverse in citizenship from the Plaintiff. Plaintiff is or was at the time the suit was filed a citizen of the State of Texas.

Plaintiff allegations in her state court petition affirmatively allege both Defendants are foreign corporations of other states.

99 Cents Only Stores LLC is a California Corporation with its principal place of business in California. It has only one member: Number Holdings Inc., a Delaware Corporation registered on October 5, 2011 with a Tax ID 80-076-1463.

99 Cents Only Stores Texas Inc. is a Delaware Corporation with its principal place of business in City of Commerce California.

Defendants were now and at the time this lawsuit was filed citizens of states other than Texas.

B. Amount in Controversy in this action

Exclusive of interest and costs, the amount in controversy exceeds the sum of \$75,000.00. In her state court petition Plaintiff claims damages of over \$250,000.00.

III.
CONCLUSION

Removal of the state court action is proper pursuant to 28 U.S.C. section 1441 since it is a civil action brought in the state court and the Federal District Court has original jurisdiction over the subject matter under 28 U.S.C. Section 1332 (a) as Plaintiff and Defendants are Diverse in Citizenship.

WHEREFORE PREMISES CONSIDERED, Defendants respectfully pray that the court, pursuant to the statutes and in conformity with the requirements set forth in 28 U.S.C. Section 1446, remove this action from the 288th Judicial District Court in Bexar County, Texas to this Honorable Court in the Western District of Texas.

Respectfully submitted,

Date: 10/14/2022

Michael J. Griffin /s/

MICHAEL J. GRIFFIN III
SBN: 08463020
FEDERAL I.D. NO. 9661
GRIFFIN & GRIFFIN
MAGNOLIA LANDMARK BLDG.
18230 FM 1488 Rd., Suite 330
Magnolia, Texas 77354
(713) 228-6568 Tel.
(713) 228-9900 Fax.
Michael@griffinandgriffin.us

**ATTORNEY FOR DEFENDANTS
99 CENTS ONLY STORES LLC and
99 CENTS ONLY STORES TEXAS,
INC.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to the following counsel of record by certified mail, return receipt requested, e-service, e-mail, facsimile transmission, and/or hand delivered by messenger, on this the 14th day of October 2022.

Karl B. Brock
BROCK & BROCK, P.C.
803 E. Mistletoe
San Antonio, Texas 78212
Tel. 210/733-6666
Fax. 210/733-6893
Email: karlb@brockandbrock.com

Date: 10/14/2022

Michael J. Griffin /s/

MICHAEL J. GRIFFIN, III

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MARY LOUISE G. DAVILA A/K/A	§	IN THE DISTRICT COURT
MARY LOUISE DAVILA	§	
	§	
VS.	§	CIVIL NO.: 5:22-CV-1123
	§	
99 CENTS ONLY STORES, LLC AND	§	
99 CENTS ONLY STORES TEXAS,	§	
INC.	§	

CERTIFICATE OF INTERESTED PERSONS

Pursuant to Federal Rules of Civil Procedure 7.1 Defendants provide the following information:

For a nongovernmental corporate party, the names of a parent corporation and any publicly held corporation that owns 10% or more of its stock:

Ares Management and CPP investment Board for 99 Cents Only Stores Inc. are interested parties.

A complete list of all persons, associations of persons, firms, partnerships, corporations, guarantors, insurers, affiliates, parent or subsidiary corporations or other legal entities that are financially interested in the outcome of the case:

99 Cents Only Stores LLC and Numbers Holdings Inc., defense counsel, Michael J. Griffin, III.

Safety National Insurance Company (Defendant's carrier over the SIR).

Respectfully submitted,

Date: 10/14/2022

Michael J. Griffin /s/

MICHAEL J. GRIFFIN III
SBN: 08463020
FEDERAL I.D. NO. 9661
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99 ONLY STORES LLC

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LIST OF COUNSEL OF RECORD

Plaintiff in the state court case is represented by Karl Brock of Brock and Brock, P. C. 803 E. Mistletoe San Antonio, Texas 78212; Tel. (210)733-6666; Fax. (210)733-6893; Emil address: Karl@brockandbrock.com.

99 CENTS ONLY STORES LLC and 99 CENTS ONLY STORES TEXAS, INC. is represented by Michael J. Griffin, III, SBN: 08463020, GRIFFIN & GRIFFIN, 18230 FM 1488, Suite 330, Magnolia, Texas 77354, Tel. (713)228-6568, Fax. (713)228-9900, Michael@griffinandgriffin.us.

Respectfully submitted,

Date: 10/14/2022

Michael J. Griffin /s/

MICHAEL J. GRIFFIN III
SBN: 08463020
FEDERAL I.D. NO. 9661
GRIFFIN & GRIFFIN

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99 CENTS ONLY STORES TEXAS,
INC.**

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Date: 10/14/2022

Michael J. Griffin /s/

MICHAEL J. GRIFFIN, III

UNITED STATES DISTRICT COURT
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INC.	§	

INDEX OF DOCUMENTS TO BE FILED WITH NOTICE OF REMOVAL

1. Plaintiff's Original Petition
2. Service of Process Transmittal Summary
3. Defendant's Original Answer
4. Defendant's Jury Demand
5. Defendant's Notice of Removal

FILED
 9/20/2022 10:12 AM
 Mary Angie Garcia
 Bexar County District Clerk
 Accepted By: Jason Pastrano
 Bexar County - 288th District Court

2 CIT PPS SAC 2

2022CI18399

CAUSE NO. _____

**MARY LOUISE G. DAVILA A/K/A
 MARY LOUISE DAVILA**

V.

**99 CENTS ONLY STORES, LLC AND
 99 CENTS ONLY STORES TEXAS, INC.**

§
§
§
§
§
§
§

IN THE DISTRICT COURT

_____ **JUDICIAL DISTRICT**

BEXAR COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES MARY LOUISE DAVILA, Plaintiff in the above-styled and numbered cause, and files this Plaintiff's Original Petition, complaining of and about 99 CENTS ONLY STORES, LLC AND 99 CENTS ONLY STORES, TEXAS, INC. hereinafter called Defendants, and for cause of action show unto the Court the following.

I.

Discovery Control Plan

1. Plaintiff intends to conduct discovery in this matter under Level 3 of the Texas Rules of Civil Procedure.

II.

Jurisdiction and Venue

2. The claims asserted arise under the common law of Texas. This Court has jurisdiction and venue is proper because all or a substantial part of the events or omissions giving rise to the claim occurred in Bexar County, Texas. Tex.Civ.Prac. & Rem. Code §15.002(a)(1).

III.

Amount in Controversy

3. The amount in controversy far exceeds the minimal jurisdictional limits of this court and

damages exceed \$250,000.00, but not more than \$1,000,000.00, including damages of any kind, penalties, court costs, expenses, pre-judgment interest and attorney's fees.

IV.

Parties

4. Plaintiff, MARY LOUISE DAVILA, is an individual residing in San Antonio, Bexar County, Texas. The last three digits of Plaintiff's driver's license no. are 280, and the last four digits of her social security number are xxx-xx-6055.

5. Defendant, **99 Cents Only Stores LLC**, (hereinafter "Defendant"), is a California corporation engaged in business in Bexar County, Texas. Defendant may be served with process by serving its registered agent, CT Corporation System, at 1999 Bryan St., Suite 900, Dallas, Texas 75201.

6. Defendant, **99 Cents Only Stores Texas, Inc.**, (hereinafter "Defendant"), is a Delaware corporation authorized to and doing business in Bexar County, Texas. Defendant may be served with process by serving its registered agent, **CT Corporation System, at 1999 Bryan St., Suite 900, Dallas, Texas 75201.**

V.

Facts

7. This lawsuit is necessary as a result of personal injuries that Plaintiff received on or about November 5, 2020. At that time, Plaintiff was an invitee at Defendants' store, located at 3025 West Avenue, San Antonio, Texas 78201. Defendants are operating the store as 99 Cents Only Store #2849. Plaintiff was shopping in the Defendants' store when she slipped and fell on water in the produce section of the store. The slip and fall caused the Plaintiff to suffer severe injuries

to multiple parts of her body. There were no warning signs present or any other signs of caution near the area where the incident occurred and Plaintiff was not aware of the dangerous condition.

8. At the time of the incident in question, Plaintiff was an invitee of the Defendants. Defendants knew or should have known of the unreasonably dangerous condition and neither corrected nor warned Plaintiff of it. Plaintiff did not have any knowledge of the dangerous condition and could not have reasonably been expected to discover it. Defendants either created the condition and/or failed to correct the condition or warn Plaintiff about the dangerous condition, which constituted negligence, and such negligence was a proximate cause of the occurrence in question and Plaintiff's resulting injuries.

9. Plaintiff would show that, based on the above-described facts, Defendants were negligent. Defendants, as occupier and owner of the premises, with control over the premises, had a duty to either warn Plaintiff of the dangerous condition or make safe the defective condition existing on Defendants' premises.

10. Defendants are liable to Plaintiff under the theory of premises liability and negligence based on the following negligent conduct:

- a. Failure to maintain the premises, including floor and walkways, in a reasonably safe condition;
 - b. Failure to inspect the premises where the dangerous condition existed;
 - c. Failure to correct the condition by taking reasonable measures to safeguard customers who entered the premises;
 - d. Failure to inform Plaintiff of the dangerous condition existing on the premises;
- and

- e. Failure to staff a sufficient number of employees to police the store premises for unsafe conditions which could potentially harm store business invitees.
11. Each of the foregoing negligent acts and/or omissions, whether taken singularly or in any combination, was a proximate cause of Plaintiff's injuries and damages that are described below.

VI.

Damages

12. As a result of these acts or omissions, Plaintiff sustained damages recognizable by law.
13. By virtue of the actions and conduct of Defendants as set forth above, Plaintiff was seriously injured and is entitled to recover the following damages:
- a. Past and future medical expenses;
 - b. Past and future pain, suffering and mental anguish;
 - c. Past and future physical impairment;
 - d. Past and future physical disfigurement; and
14. By reason of the above, Plaintiff is entitled to recover damages from Defendants in an amount within the jurisdictional limits of this Court, as well as pre and post-judgment interest.

VII.

Rule 193.7 Notice

15. Plaintiff hereby gives actual notice to Defendants that any and all documents produced may be used against Defendants at any pre-trial proceeding and/or at trial of this matter without the necessity of authenticating the documents.

VIII.

Prayer

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the Defendants be cited to appear and answer herein that upon final recovery, Plaintiff have judgment of and from these Defendants, for all of his damages in an amount not to exceed \$1,000,000.00, together with pre-judgment interest at the legal rate, post-judgment interest at the legal rate from date of judgment until paid, all costs of court, and for such other and further relief to which Plaintiff may be justly entitled, either at law or in equity.

Respectfully submitted,

BROCK & BROCK, P.C.

803 E. Mistletoe

San Antonio, Texas 78212

Telephone: (210) 733-6666

Telecopier: (210) 733-6893

BY: Karl B. Brock

KARL B. BROCK

State Bar No. 03044150

Email: karlb@brockandbrock.com

ATTORNEYS FOR PLAINTIFF

PLAINTIFF DEMANDS A TRIAL BY JURY.



CT Corporation
Service of Process Notification
09/26/2022
CT Log Number 542379536

Service of Process Transmittal Summary

TO: Mary Kasper
99 CENTS ONLY STORES
4000 Union Pacific Ave
Commerce, CA 90023-3202

RE: Process Served in Texas

FOR: 99 Cents Only Stores Texas, Inc. (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Re: MARY LOUISE G. DAVILA A/K/A MARY LOUISE DAVILA // To: 99 Cents Only Stores Texas, Inc.

CASE #: 2022CI18399

NATURE OF ACTION: Personal Injury - Failure to Maintain Premises in a Safe Condition

PROCESS SERVED ON: C T Corporation System, Dallas, TX

DATE/METHOD OF SERVICE: By Process Server on 09/26/2022 at 15:10

JURISDICTION SERVED: Texas

ACTION ITEMS: CT has retained the current log, Retain Date: 09/27/2022, Expected Purge Date: 10/02/2022

Image SOP

Email Notification, Mary Kasper mary.kasper@99only.com

Email Notification, Mary Kay Delgado marykay.delgado@99only.com

Email Notification, Marlon Mendoza marlon.mendoza@99only.com

REGISTERED AGENT CONTACT: C T Corporation System
1999 Bryan Street
Suite 900
Dallas, TX 75201
866-539-8692
CorporationTeam@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.

NO. 2022CI18399

MARY LOUISE G. DAVILA A/K/A	§	IN THE DISTRICT COURT
MARY LOUISE DAVILA	§	
<i>Plaintiff</i>	§	
	§	
VS.	§	BEXAR COUNTY, TEXAS
	§	
99 CENTS ONLY STORES, LLC AND	§	
99 CENTS ONLY STORES TEXAS,	§	
INC.	§	
<i>Defendants</i>	§	288 TH JUDICIAL DISTRICT

DEFENDANTS, 99 CENTS ONLY STORES, LLC AND
99 CENTS ONLY STORES TEXAS, INC.'S ORIGINAL ANSWER

COMES NOW, 99 CENT ONLY STORES, LLC and 99 CENTS ONLY STORES TEXAS, INC., Defendants in the above-entitled and numbered cause and in Answer to Plaintiff's Original Petition would respectfully show unto the Court as follows:

I.

Defendants generally deny the allegations of the Petition and thus asserting the privilege of having such allegations proved by a preponderance of the evidence. Defendants will amend their Answer as necessary.

Defendants are alleging contributory negligence on the part of the Plaintiff and unavoidable accident.

WHEREFORE, PREMISES CONSIDERED, Defendants pray that petitioner take nothing by reason of this suit, that the Defendants be discharged and that they go hence with their costs without delay, and for such other and further relief, both general and special, at law and in equity, to which they may show themselves be justly entitled.

Respectfully submitted,

GRIFFIN & GRIFFIN



MICHAEL J. GRIFFIN III

SBN: 08463020

Michael@griffinandgriffin.us (no e-service)

MARILYN O. GRIFFIN

SBN: 08463020

Marilyn@griffinandgriffin.us (no e-service)

MAGNOLIA LANDMARK BLDG.

18230 FM 1488 Rd., Suite 330

Magnolia, Texas 77354

(713) 228-6568 Tel.

(713) 228-9900 Fax.


E-service: eservice@griffinandgriffin.us

**ATTORNEYS FOR DEFENDANTS
99 CENTS ONLY STORES, LLC and
99 CENTS ONLY STORES TEXAS,
INC.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to the following counsel of record by certified mail, return receipt requested, e-service, e-mail, facsimile transmission, and/or hand delivered by messenger, on this the 5th day of October 2022, in compliance with Tex.R.Civ.P. 21:

Karl B. Brock
BROCK & BROCK, P.C.
803 E. Mistletoe
San Antonio, Texas 78212
Tel. 210/733-6666
Fax. 210/733-6893
Email: karlb@brockandbrock.com



MICHAEL J. GRIFFIN III
MARILYN O. GRIFFIN

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Cynthia Montana on behalf of Michael Griffin III

Bar No. 08463020

cindy@griffinandgriffin.us

Envelope ID: 68953386

Status as of 10/6/2022 10:56 AM CST

Associated Case Party: 99 Cents Only Stores LLC

Name	BarNumber	Email	TimestampSubmitted	Status
Cindy Montana		cindy@griffinandgriffin.us	10/6/2022 9:19:50 AM	SENT
Michael JohnGriffin III		eservice@griffinandgriffin.us	10/6/2022 9:19:50 AM	SENT
MICHAEL J.GRIFFIN		MICHAEL@GRIFFINANDGRIFFIN.US	10/6/2022 9:19:50 AM	SENT
Marilyn OttemanGriffin		marilyn@griffinandgriffin.us	10/6/2022 9:19:50 AM	SENT

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MICHAEL J.GRIFFIN		MICHAEL@GRIFFINANDGRIFFIN.US	10/6/2022 9:19:50 AM	SENT
Marilyn OttemanGriffin		marilyn@griffinandgriffin.us	10/6/2022 9:19:50 AM	SENT

NO. 2022CI18399

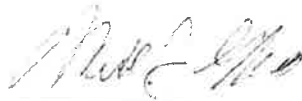
MARY LOUISE G. DAVILA A/K/A	§	IN THE DISTRICT COURT
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99 CENTS ONLY STORES TEXAS,	§	
INC.	§	
<i>Defendants</i>	§	288 TH JUDICIAL DISTRICT

DEFENDANTS JURY DEMAND

COMES NOW, 99 CENTS ONLY STORES, LLC and 99 CENTS ONLY STORES TEXAS, INC., Defendants and pursuant to Rule 38 respectfully request a jury trial on all issues triable.

Respectfully submitted,

GRIFFIN & GRIFFIN



MICHAEL J. GRIFFIN III

SBN: 08463020

Michael@griffinandgriffin.us (no e-service)

MARILYN O. GRIFFIN

SBN: 08463020

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MARILYN O. GRIFFIN

NO. 2022CI18399

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INC.	§	
<i>Defendants</i>	§	288 TH JUDICIAL DISTRICT

DEFENDANTS NOTICE TO ADVERSE PARTIES OF REMOVAL

TO: Plaintiff, MARY LOUISE G. DAVILA, by and through her attorney of record, Karl B. Brock, BROCK & BROCK, P.C., 803 E. Mistletoe, San Antonio, Texas 78212.

Please take notice that the civil action in which you are named as a plaintiff, commenced on September 20, 2022 in the 288th District court of Bexar County styled: Mary Louise G. Davila a/k/a Mary Louise Davila v. 99 Cents Only Stores LLC and 99 Only Stores Texas Inc. with a Cause No. of 2022CI18399 has been removed from that court to the United States District Court for the Western District of Texas today October 14, 2022.

On this date, a Notice of Removal, a copy of which is attached as Exhibit "A" was filed with the clerk of the United States District Court. A copy of that Notice of Removal has been filed with the clerk

of the state court affecting removal pursuant to 28 U.S.C. Section 1446.

Respectfully submitted,

GRIFFIN & GRIFFIN



MICHAEL J. GRIFFIN III

SBN: 08463020

Michael@griffinandgriffin.us (no e-service)

MARILYN O. GRIFFIN

SBN: 08463020

Marilyn@griffinandgriffin.us (no e-service)

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MARILYN O. GRIFFIN